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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1946

No. 517

LEO SANDERS, SOLE TRADER, DOING BUSINESS AS LEO
SANDERS FUEL COMPANY,

Petitioner,

vs.

THE OKLAHOMA TAX COMMISSION,

Respondent

**PETITION FOR WRIT OF CERTIORARI TO THE
SUPREME COURT OF OKLAHOMA**

*To the Honorable The Chief Justice and Associate Justices
of the Supreme Court of the United States:*

Your petitioner, Leo Sanders, sole trader doing business as Leo Sanders Fuel Company, hereby petitions for review upon writ of certiorari decision and judgment of the Supreme Court of Oklahoma, being the court of last resort of that state, and respectfully shows:

Opinions Below

The opinion (R. 36) of the District Court of Oklahoma County, Oklahoma, is not reported.

The opinion (R. 42) of the Supreme Court of Oklahoma has not been officially reported; but such opinion may be found in 169 Pac. (2) 748.

Jurisdictional Statement

The petition (R. 48) to the Supreme Court of Oklahoma for rehearing was denied (R. 52) on June 18, 1946, and on that date the decision became final.

The jurisdiction of this Court is invoked under Section 237 (b) of the Judicial Code, as amended by the act of February 13, 1925, on the ground that the Oklahoma Statute in question is repugnant to the laws of the United States and because certain immunities granted this petitioner by Federal Statute have been invaded by the State of Oklahoma.

The issue in this case is whether the petitioner, Leo Sanders, is taxable under the provisions of the Oklahoma Gasoline Excise Tax (Chapter 18, Title 68 O. S. 1941, *infra*) with respect to gasoline used by him as a contractor with the United States in the erection of certain improvements situated on Federal enclaves located within the State of Oklahoma. The denying of petitioner's claim for such immunity by the Court below plainly presents a federal question under Section 237 (b) of the Judicial Code. *Federal Land Bank v. Priddy*, 295 U. S. 229.

The federal questions were set up and claimed by the petitioner, Leo Sanders, in his petition or bill (R. 2, 29) filed in the trial court; in the assignments of error (R. 1) by petitioner as plaintiff-in-error in the court below; were briefed before the Supreme Court of Oklahoma and were squarely decided by the Supreme Court of Oklahoma (R. 42) adversely to petitioner. The grounds upon which it is contended that the questions are substantial are set forth in the Reasons for Granting the Writ, *ingra*.

Question Presented

Whether the United States, by the Hayden-Cartwright Act and the Buck Act, consented to the levy by a state of a tax upon the use of gasoline within a federal enclave.

Statutes Involved

By Chapter 18, Title 68, Oklahoma Statutes 1941 (Article 14, Chapter 66, Laws 1939) the State of Oklahoma levied an excise tax upon every gallon of gasoline sold, stored, distributed or withdrawn from storage within the State of Oklahoma for sale or other use. The pertinent provisions of the Oklahoma gasoline excise tax law are printed in the appendix, *infra*. It was under the authority of this act that the tax here in dispute was levied by the Oklahoma Tax Commission, the respondent.

By Section 1, Title 80 O. S. 1941 (Chapter 46, Laws 1915), the State of Oklahoma gave consent to the acquisition by the United States of any land in Oklahoma required by it for military reservations, irrigation or drainage projects, etc. By Section 2 of this same title (Section 3191, Revised Laws 1910) the State of Oklahoma ceded to the United States exclusive jurisdiction in and over any lands so acquired except for the services thereupon of criminal and civil process. These statutes are printed in full in the appendix, *infra*.

By the Act of June 16, 1936, 49 Stat. 1519 (Hayden-Cartwright Act) (Title 4, U. S. C. A., Section 12), the United States consented to the levy and collection by the states of their various gasoline sales taxes as to gasoline sold by Post Exchanges and other agencies located upon military and similar reservations.

By the Act of October 9, 1940, 54 Stat. 1059 (Buck Act) (Title 4, U. S. C. A., Sections 12-13), the immunity was simi-

larly waived with respect to sales and use taxes, and in addition, certain changes in language were effected in the Hayden-Cartwright Act. The original Hayden-Cartwright Act and the same law as modified by the Buck Act are contained in the appendix, *infra*.

Statement

This petition is filed to review a decree or decision (R. 42) of the Supreme Court of Oklahoma handed down on May 21, 1946, in which it upheld the contention of the respondent, the Oklahoma Tax Commission, that gasoline used by the petitioner as a contractor in the erection of certain public improvements pursuant to a contract with the United States and which public improvements were located on lands exclusive jurisdiction to which had been ceded to the United States by the State of Oklahoma, were subject to the Oklahoma gasoline excise tax.

This action was initiated by petitioner in the District Court of Oklahoma County, Oklahoma, by the filing of his petition or bill (R. 2) seeking to recover certain sums of money paid by petitioner under protest to the Oklahoma Tax Commission. The case was tried on an agreed statement of facts (R. 26, 33).

Under the authority of the Flood Control Act of June 22, 1936, the United States acquired certain lands in Oklahoma adjacent to a stream known as Wolf Creek. On the 25th day of July, 1940, a contract (R. 35) was entered into between this petitioner, Leo Sanders, as contractor, and the United States of America as owner, whereby the contractor agreed to perform certain work in the erection on such lands of the Wolf Creek flood control installations. Petitioner secured from the Oklahoma Tax Commission, respondent, a distributor's license for the bulk handling of gasoline. He thereafter from time to time caused to be

shipped to the site of the project sufficient motor fuel to propel thereon his power driven machinery. None of the motor fuel was used upon the highways of the State of Oklahoma (R. 28). Petitioner's contract (R. 35) with the United States was the usual so-called "lump sum" contract.

Thereafter in 1942, petitioner entered into another "lump sum" contract with the United States (R. 28) for the construction of certain improvements near Oklahoma City known as the Oklahoma Aircraft Assembly Plant, which installation was likewise located upon lands owned by the United States. In a similar manner, petitioner utilized in his construction work gasoline motor fuel. It was likewise stipulated (R. 28) that none of this fuel was utilized by petitioner in any way except as fuel for the power driven equipment incident to the performance of his construction contract.

The gasoline excise tax levied by respondent was paid by petitioner under protest and suit instituted within the proper time for its recovery, all in the manner provided by Oklahoma law (Chapter 32, Title 68, O. S., 1941).

There is no controversy as to the amount of the tax; in the event petitioner is legally liable for tax, the amount so paid under protest has been stipulated as the correct amount (R. 27). Likewise, if the tax is not legally due, it has been stipulated that the entire amount so paid is to be refunded to petitioner.

The trial court held in favor of the defendant, respondent herein, holding that petitioner was liable for the tax under applicable state and federal statutes (R. 36). The Supreme Court of Oklahoma affirmed this judgment (R. 42).

Reasons for Granting the Writ

The writ of certiorari should be granted for the following several and separate reasons:

1. Exclusive jurisdiction over the two areas here in question has been ceded to the United States by the State of Oklahoma. The only power of the state of Oklahoma to levy taxes within the area of such enclaves is that granted it by the Hayden-Cartwright Act and the Buck Act, *infra*. The decision of the Supreme Court of Oklahoma, in effect, construes such enactments as authority for the levying of the gasoline excise tax upon the use of gasoline within federal areas. This conclusion of the court below is clearly in conflict with the plain language of the Federal Act, which specifies that taxes levied by any state upon or measured by sales, purchases, storage or use of gasoline may be levied with respect to such fuels *when sold* by or through post exchanges or other similar agencies located upon such reservations when such vehicles are not for the exclusive use of the United States. It must be noted that although the waiver of immunity goes to motor fuel sold or used within the enclave, such waiver is limited to such fuels, "when sold" by or through post exchanges or other similar agencies. In effect, the decision of the Court below erroneously broadened the language of the federal enactment reading "when sold by or through". The Court below clearly erred in extending the language of the Buck Act to instances when the fuel is used in contradistinction to when the fuel is sold.

2. The court below erred in following the decision of the United States Circuit Court of Appeals for the Eighth Circuit, *Minnesota v. Keeley*, 126 F. (2d) 863, for the reason that in the *Minnesota* case the fuel was sold upon the reser-

vation in question, in contradistinction of the facts as they exist in the present case, namely that the fuels here were used only.

3. The decision of the court below is in conflict with the decision of the Supreme Court in Wyoming, the highest court of that state, in *Wyoming v. Yellowstone Park Co.*, 57 Wyoming 502, 121 Pac. (2d) 170. Certiorari denied, 316 U. S. 689. There gasoline was used by the Texas Company in the operation of certain concessions within Yellowstone Park and upon which fuel it refused to pay the Wyoming gasoline tax. It paid without question the Wyoming tax upon fuels sold within the reservation. As to fuels used and not sold the Wyoming Supreme Court held that immunity had not been waived. Although the *Wyoming* case was decided upon transactions occurring prior to the passage of the Act of October 9, 1940, the applicable provisions of the waiver of immunity remain substantially the same as to the gasoline tax in both the Hayden-Cartwright Act and the Buck Act. Such a conflict has been held grounds for granting a writ of certiorari. *Spicer v. Smith*, 288 U. S. 430; *Trotter v. State of Tennessee*, 290 U. S. 354; *Pagel v. Pagel*, 291 U. S. 473.

4. The decision of the Court below involves a federal question of substance which has not heretofore been determined by this court. This court has never determined whether the waiver of immunity as to gasoline excise taxes, as contained in the Buck Act, is to be extended to gasoline used within federal enclaves by those other than the United States. The matter here presented is of grave importance to petitioner, of course. But it is also of substantial importance to the United States and the States of the Union. In view of the ever-increasing use by contractors of machinery propelled by gasoline incident to the construction

of federal improvements, a decision of this court is necessary to settle conflicting interpretations as to the exact nature of the waiver of immunity as to gasoline as is contained in the Buck Act. Such is grounds for granting a writ of certiorari (Section 5(a), Rule 38).

Argument

The opinion (R. 46) of the Court below presents petitioner's position squarely:

"It is plaintiff's position that the United States, by the Buck Act, has not given the state the right to tax the withdrawal from storage or use of gasoline occurring within the federal area unless accompanied by a sale therein."

"We are of the opinion that plaintiff's interpretation of the statutes is erroneous and that his contentions must fail. We think the purpose of the amendment of 1940 was to permit the various states to tax the use or sale of gasoline occurring within federal areas in exactly the same manner as though such areas did not exist, except in cases where the gasoline was to be used exclusively by the United States. It is true that in amending the statute Congress did not change the qualifying phrase "when sold by or through" post exchanges etc., and under a literal construction the act might be interpreted to mean that the state could tax the use of gasoline only if sold in the area. Such an interpretation however leads to an absurd result."

Petitioner urges that a careful analysis of the two acts, when considered in light of the reason for their enactment, shows that such a conclusion does not lead "to an absurd result", but on the other hand is the only interpretation consistent with the plain language of the law.

Exclusive jurisdiction over federal enclaves located within the State of Oklahoma has been ceded to the United

States. Any power or authority in the State of Oklahoma to tax activities or operations carried on within the boundaries of such areas must arise solely from a waiver of immunity granted it by the United States. Such waiver is contained in the Hayden-Cartwright Act (49 Stat. 1521, *infra*) and the Buck Act (54 Stat. 1059, *infra*). Whatever the waiver of immunity may be thus is to be found within the four corners of these two statutes.

The pertinent language of the original Hayden-Cartwright Act was:

“That all taxes levied by any State, Territory or the District of Columbia upon sales of gasoline and other motor vehicle fuels may be levied, in the same manner and to the same extent, upon such fuels when sold by or through post exchanges, ship service stores, commissaries, filling stations, licensed traders, and other similar agencies, located on United States military or other reservations, when such fuels are not for the exclusive use of the United States.”

The limiting language was the phrase “upon sales of gasoline”. A number of state statutes, although in effect taxing gasoline, levied the tax in the form of a “use” or “privilege” tax, rather than a straight “sales” tax. Under the somewhat narrow language of the Hayden-Cartwright Act a number of administrative interpretations permitted only those states that had a pure sales tax to enjoy the benefits of the act, while other states, due to the form of their gasoline statute, were unable to come within its provisions.

In view of this the matter was given further study, and at the time the Buck Act, permitting the levy and collection of sales and use tax, was adopted an additional section

(Section 7) was added thereto, modifying the phrase in the original act:

"upon sales of gasoline and other motor vehicle fuels," to read:

"upon, with respect to, or measured by, sales, purchases, storage, or use of gasoline or other motor vehicle fuels."

The Senate Report (Senate Report 1625, May 16, 1940, to accompany H. R. 6687) at the time the Buck Act was under consideration is particularly helpful (page 5):

"At the present time a State such as Illinois, which has a so-called gallonage tax on gasoline based upon the privilege of using the highways in that State, is prevented from levying such tax under the Hayden-Cartwright Act because it is not a tax upon the 'sale' of gasoline. The amendments recommended by your committee will correct this obvious inequity and will permit the levying of any such tax which is levied 'upon, with respect to, or measured by, sales, purchases, storage, or use of gasoline or other motor vehicle fuels.' "

In other words, the purpose of the amendment contained in the Buck Act was not to extend the waiver of immunity to all instances where gasoline was sold, stored or used upon federal reservations, but to all instances where gasoline was sold upon reservations and the state tax thereon was measured by the sale, purchase, storage or use thereof. This conclusion appears to be self-evident from the fact that the amended act still contains the limiting phrase:

"with respect to such fuels when sold by or through
* * *."

Petitioner believes that the court below erroneously construed the purpose of the amendment in stating that it was

designed to waive immunity on all transactions involving the sale, purchase or use of gasoline; whereas, in truth and fact the amendment was designed to reach the sale of gasoline only but by permitting the collection of the tax regardless of whether it was levied upon the sale, purchase, storage or use.

After the amendment there exist two parallel waivers: Section 1 and Section 7 of the Buck Act.

Section 1 reads:

"No person shall be relieved from liability for payment of, collection of, or accounting for any sales or use tax levied by any State, or by any duly constituted taxing authority therein, having jurisdiction to levy such a tax, on the ground that the sale or use, with respect to which such tax is levied, occurred in whole or in part within a Federal area; and such State or taxing authority shall have full jurisdiction and power to levy and collect any such tax in any Federal area within such State to the same extent and with the same effect as though such area was not a Federal area."

The pertinent portion of Section 7 reads:

"All taxes levied by any State, Territory or the District of Columbia upon, with respect to, or measured, by, sales, purchases, storage, or use of gasoline or other motor vehicle fuels may be levied, in the same manner and to the same extent, with respect to such fuels when sold by or through post exchanges, ship stores, ship service stores, commissaries, filling stations, licensed traders, and other similar agencies, located on United States military or other reservations, when such fuels are not for the exclusive use of the United States."

Section 1 waives the immunity on sales and use taxes, and Section 7 waives the immunity on the gasoline tax, irrespective of whether the same takes the form of a

"sales", "privilege", "use" or "excise" tax. Section 1 of the Buck Act has no connection with state gasoline taxes, wherein Section 7 is limited to gasoline taxes only. If such were not the case there would be no purpose in including both sections in the act. This point is clear from the Senate Report (Report No. 1625, *supra*). In stating the purposes of the bill, the Committee reported (page 2) that the gasoline tax section was distinct from Section 1:

"Third, it contains certain clarifying amendments to section 10 of the Federal Highway Act of June 16, 1936 (known as the Hayden-Cartwright Act permitting State taxation of sales of gasoline and other motor-vehicle fuels sold in Federal areas for private purposes), and provides that the tax levied and collected under that section shall continue to be levied and collected under that section, as amended, rather than under the authority contained in section 1 of this bill."

The distinction between the two sections, and the plain difference in their language, is obvious. Section 1 contains no limiting phrase, but merely permits the collection of any such tax to the same extent and with the same effect as though the federal area did not exist. This broad language is absent from Section 7. Section 7 on the other hand limits the immunity waiver to instances where such fuels are "sold" by or through post exchanges and other similar agencies. To come within the immunity waiver contained in Section 7 there must be a sale. Any other conclusion would decry the plain language of the statute.

Conclusion

The decision sought to be reviewed involves a question of vital concern to the taxing authorities of the several States, particularly those states within which are located numbers

of Federal reservations and public improvement projects belonging to the United States.

It is therefore respectfully submitted that this petition for writ of certiorari be granted.

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APPENDIX**Chapter 18, Title 68, Oklahoma Statutes 1941
(Article 14, Chapter 66, Laws 1939)**

Section 659a. LEVY OF TAX—AMOUNT—COMPUTATION—PAYMENT—POLITICAL SUBDIVISIONS PROHIBITED FROM TAXING. There is hereby levied an excise tax of four cents (4¢) per gallon upon the sale of each and every gallon of gasoline sold, or stored and distributed, or withdrawn from storage, within the State, for sale or other use, on and after June 1, 1939, to be reported and collected as provided by law; provided, that ninety-seven and one-half per cent (97½%) of the net gallonage reported for taxation, after all deductions allowed by law have been made, shall be the basis used in the computation of the amount of tax due the State; provided, no gasoline shall be the basis of the gasoline excise tax hereby imposed more than once.

The tax here provided for shall be payable to and collected by the Tax Commission.

The tax shall be payable upon gasoline sold and delivered to, or used by the State or any political subdivision thereof.

No city, town, county, or other political subdivision of the State shall levy or collect any excise tax on the sale, distribution, consumption or use of motor fuel as herein defined.

Section 659c. TIME WHEN DUE—REPORTS BY DISTRIBUTOR—PAYMENT WHEN MAKING REPORT—SALES WHILE DELINQUENT. The excise tax levied by this Act shall be due and payable on the first day of each month for the preceding calendar month and if not paid on or before the fifteenth day of each month shall thereafter be delinquent.

Every distributor shall make and transmit to the Tax Commission on or before the fifteenth day of each calendar month, upon a form prescribed and furnished by the Tax Commission, an itemized report verified by affidavit showing the quantity of motor fuel and blending material imported, produced, refined, manufactured, or compounded within this State, the number of gallons of motor fuel or

blending material received, as shown by the shipper's invoice thereof, by such distributor in the State of Oklahoma from any source whatsoever during the preceding calendar month, the number of gallons of motor fuel or blending material purchased, received, or accepted in this State in the original package or container in which same was imported into this State, the amount purchased, the date of each purchase or purchases, the name of the person from whom purchased, the delivery invoice number of each shipment, the date of receipt of such shipment of motor fuel or blending material, the point of origin, point of destination of each shipment, gravity of each shipment, the quantity of each and of said purchases or shipments, how transported, the tank car number and initial of the car, if shipped by rail, or the license tag number of the transporting vehicle. The report must also include the number of gallons of motor fuel or blending material sold, used, or withdrawn from storage for sale or other use in the State of Oklahoma during the preceding calendar month, the date of or dates of each such sale, use or withdrawal for sale or use, the quantity of each sale, or amount used, the name and address of each purchaser, delivery invoice number, how transported; the tank car initial and number of the car in which same was shipped, if transported by rail or the license tag number of the transporting vehicle. The report must also include the amount of motor fuel and blending material on hand at the beginning and close of the month as shown by the physical inventory taken on those dates, and such other information pertaining to such production, receipts, sales, or use of motor fuel or blending material as the Tax Commission may require.

Every distributor, at the time of making the monthly reports required by this Section, shall remit to the Tax Commission the amount of excise tax due.

It shall be unlawful for any distributor or for any retailer or dealer to sell or to offer for sale in this State, motor fuel while delinquent in the payment of any excise tax due the State.

The time for filing returns and paying tax levied by this Act shall not be extended.

Section 659e. SALES BETWEEN DISTRIBUTORS—REPORT OF SALE—GASOLINE SUBJECT TO TAX-EXEMPTION. (a) Any licensed distributor in this State may sell motor fuel to any other distributor, licensed under the terms of this Act and such other distributor must assume the excise tax imposed by this Act on any such motor fuel; provided, however, such licensed distributor must report each such sale to the Tax Commission within five days after the date of sale, giving full details of such sale, including the date of shipment, invoice number, quantity, tank car initial and number or license tag number if delivered by tank wagon, name and address of consignee; provided, the distributor receiving such motor fuel must separately show in his monthly report to the Commission all such receipts from each distributor, giving full details, including invoice number and number of gallons of each shipment.

(b) Gasoline produced, refined, manufactured, compounded, or imported into this State, or withdrawn from storage, and sold for exportation and exported, by a licensed distributor or a licensed transporter for hire shall not be subject to the gasoline excise tax hereby levied; provided, however, gasoline produced, refined, manufactured or compounded, in this State, and transported out of this State, and brought back within this State, shall be subject to the gasoline excise tax hereby levied.

(c) In support of any exemption from motor fuel excise tax claimed under this Section on account of the exportation of motor fuel, every distributor must execute and file with his regular monthly report an export certificate in such form as shall be prescribed and furnished by the Tax Commission, containing a sworn statement made by some person having actual knowledge of the facts of such exportation, that the motor fuel has been exported from the State of Oklahoma. Said export certificate shall include the date of the export, invoice number, tank car initial and number, truck license number if exported by truck, or name of pipe line, consignee and final destination, and such other information with reference to such exports as the Tax Commission may require.

(d) When any motor fuel is sold by a distributor or any retailer or dealer to the United States of America, the distributor or retailer or dealer shall demand and receive of the purchaser, in lieu of the tax, an exemption certificate of the kind prescribed and furnished by the Comptroller General of the United States, and such certificates shall be presented to the Tax Commission in lieu of the tax only by the distributor handling such motor fuel.

Section 659i. DISTRIBUTOR'S LICENSE—APPLICATION—BOND—ISSUANCE—CANCELLATION OF BOND—DISCONTINUANCE OF BUSINESS—NON-RESIDENTS—STORAGE FACILITIES. (a) Every person defined as a distributor in Section 1 of this Act, before commencing such business, using or offering for sale any motor fuel within this State must procure a distributor license as provided in this Section to carry on such business.

(b) Any person desiring to procure a distributor license must file an application verified by affidavit with the Tax Commission, on a form prescribed and furnished by the Tax Commission, showing the name under which such person intends to transact business within this State, the location and address of each place of business, if more than one, a designation of the principal place of business, the name and address of each person constituting the organization if the applicant is not a corporation, or, if the applicant is a corporation, the names and addresses of the principal officers and such other information as the Tax Commission may require. No person shall be licensed as a distributor, retailer or dealer, who had no fixed place of business for the sale of motor fuel and keeping of records required by this Act.

(c) Before any such application for distributor license may be approved, the applicant must file a bond in a penal sum of not less than Two Hundred and Fifty (\$250.00) Dollars, nor more than Ten Thousand (\$10,000.00) Dollars, the amount thereof to be fixed by order of the Tax Commission, payable to the State of Oklahoma, conditioned upon compliance with the provisions of this Act and the Rules and Regulations of the Tax Commission.

(d) Upon approval of such application and bond the Tax Commission shall issue to the applicant a non-transferable distributor license bearing a distinctive number, such license to remain in full force until surrendered, suspended or cancelled in the manner provided by law.

(e) Upon cancellation of the motor fuel excise tax bond of any distributor all tax and penalties shall become due and payable and such distributor shall forthwith make a report and pay all such tax and penalties and shall include the tax on all stock of motor fuel on hand at the time of such cancellation unless a new bond has been furnished and approved.

(f) Whenever a licensed distributor ceases to carry on such business for any reason whatsoever such person shall forthwith notify the Tax Commission the date on which such business was discontinued, and in the event of the sale or transfer of such business, the name and address of the purchaser or transferee and shall report immediately and pay all tax, interest and penalties due and shall surrender all licenses, permits, and duplicate licenses theretofore issued by the Tax Commission to such person.

(g) No non-resident person shall be issued a license as a distributor of gasoline or motor fuel unless such person has established within the boundaries of the State of Oklahoma storage facilities for the storing of gasoline distributed within the State of Oklahoma, and no such distributor, as defined in Section one of this Act, shall use, distribute, offer for sale or transport upon the highways of this State for distribution any gasoline or motor fuel unless such gasoline or motor fuel has first been stored in and withdrawn from storage in the storage facilities specified in such distributor's application for a license. Provided, that this provision shall not apply to distributors of gasoline or motor fuel whose principal place of business is in another state which does not require licensed Oklahoma distributors to maintain storage facilities in such other state for the storage of gasoline and motor fuel distributed by Oklahoma distributors in such state.

**Section 1, Title 80, Oklahoma Statutes 1941
(Chapter 46, Laws 1915)**

1. STATE'S CONSENT TO ACQUISITION OF LANDS BY UNITED STATES. The consent of the State of Oklahoma is hereby given, in accordance with the seventeenth clause, eighth section, of the first article of the Constitution of the United States, to the acquisition by the United States, by purchase, condemnation or otherwise, of any land in this state required for sites for custom houses, postoffices, arsenals, forts, magazines, dockyards, military reserves, forest reserves, game preserves, national parks, irrigation or drainage projects, or for needful public buildings or for any other purposes for the government.

**Section 2, Title 80, Oklahoma Statutes 1941
(Section 3191, Revised Laws 1910)**

2. JURISDICTION CEDED TO UNITED STATES OVER LANDS ACQUIRED. Exclusive jurisdiction in and over any lands so acquired by the United States shall be, and the same is hereby ceded to the United States for all purposes except the service upon such sites of all civil and criminal process of the courts of this State; but the jurisdiction so ceded shall continue no longer than the said United States shall own such lands.

**The Original Hayden-Cartwright Act
Act of June 16, 1936, 49 Stat. 1519**

(Title 4 U. S. C. A., Section 12) (Public 686, 74th Congress)

10. (a) That all taxes levied by any State, Territory or the District of Columbia upon sales of gasoline and other motor vehicle fuels may be levied in the same manner and to the same extent, upon such fuels when sold by or through post exchanges, ship service stores, commissaries, filling stations, licensed traders, and other similar agencies, located on United States military or other reservations, when such fuels are not for the exclusive use of the United States. Such taxes, so levied, shall be paid to the proper taxing authorities of the State, Territory or the District of Colum-

bia, within whose borders the reservation affected may be located.

(b) The officer in charge of such reservation shall, on or before the fifteenth day of each month, submit a written statement to the proper taxing authorities of the State, Territory or the District of Columbia within whose borders the reservation is located, showing the amount of such motor fuel not sold for the exclusive use of the United States during the preceding month.

Buck Act

Act of October 9, 1940, 54 Stat. 1059

(Title 4 U. S. C. A., Sections 12 and 13)

Section 1. STATE, ETC., TAXATION AFFECTING FEDERAL AREAS: SALES OR USE TAX. (a) No person shall be relieved from liability for payment of, collection of, or accounting for any sales or use tax levied by any State, or by any duly constituted taxing authority therein, having jurisdiction to levy such a tax, on the ground that the sale or use, with respect to which such tax is levied, occurred in whole or in part within a Federal area; and such State or taxing authority shall have full jurisdiction and power to levy and collect any such tax in any Federal area within such State to the same extent and with the same effect as though such area was not a Federal area.

(b) The provisions of subsection (a) shall be applicable only with respect to sales or purchases made, receipts from sales received, or storage or use occurring, after December 31, 1940.

Section 7. TAX ON MOTOR FUEL SOLD ON MILITARY OR OTHER RESERVATION : REPORTS TO STATE TAXING AUTHORITY. (a) All taxes levied by any State, Territory or the District of Columbia upon, with respect to, or measured by, sales, purchases, storage, or use of gasoline or other motor vehicle fuels may be levied, in the same manner and to the same extent, with respect to such fuels when sold by or through post exchanges, ship stores, ship service stores, commissaries, filling stations, licensed traders, and other similar agencies, located on

United States military or other reservations, when such fuels are not for the exclusive use of the United States. Such taxes, so levied, shall be paid to the proper taxing authorities of the State, Territory or the District of Columbia, within whose borders the reservation affected may be located.

(b) The officer in charge of such reservation shall, on or before the fifteenth day of each month, submit a written statement to the proper taxing authorities of the State, Territory or the District of Columbia within whose borders the reservation is located, showing the amount of such motor fuel with respect to which taxes are payable under subsection (a) for the preceding month.

(6781)